

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 25991 of 2007(T)

PETITIONER:

SANGEETHA, AGED 20 YEARS,
W/O.SANOOP, KOLARA HOUSE, NEAR AYYAPPANKAVU TEMPLE
VADOOKARA, THRISSUR.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS:

1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHACADU,
THIRUVANANTHAPUARM.
3. THE SUB INSPECTOR OF POLICE,
NEDUPUZHA POLICE STATION,
NEDUPUZHA.
4. CIRCLE INSPECTOR OF POLICE,
CHERPU.
5. THE SUPERINTENDENT,
CENTRAL BUREAU OF INVESTIGATION, KOCHI.
6. THE SUPERINTENDENT,
C.B.C.I.D., THIRUVANANTHAPURAM.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI
PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J
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W.P.(C). No.25991 Of 2007
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Dated this the 28th day of September, 2007

JUDGMENT

The petitioner-a woman, faces allegations in a prosecution initially registered under Sec.318 IPC, but consequently altered to Sec.302 IPC. She has been arrested and released on bail. She has come to this Court with this writ petition complaining about the very unsatisfactory quality of investigation that is being undertaken by the persons responsible for the investigation of this crime. She prays that the investigation may be entrusted to more competent senior and efficient hands so that truth can be unearthed.

2. As the contention of the petitioner did appeal to me prima facie, the learned Public Prosecutor was directed to place the case diary for my perusal. I have perused the same. The matter was discussed at the Bar after such perusal again.

3. To put it in a nutshell, the crux of the allegations against petitioner is that she gave birth to a child on the night between 11.06.07 and 12.06.07. She was in advanced stage of pregnancy at that time. Though in the Case Diary it is alleged that no others knew about the pregnancy, the fact of her giving birth to the child, it is alleged, was not known to any other inmates in the house, including

her mother-in-law and her husband. The husband was sharing the same room with the petitioner on that night and the version of the Investigating Officer, at present, is that without the knowledge of the husband of the petitioner, she gave birth to a child and strangled the child and kept the child wrapped in clothes along with some blood stained clothes in a box. The petitioner allegedly complained to her husband and mother-in-law of stomach ache and the husband allegedly took her in an auto rickshaw to a hospital. At the hospital it was disclosed to the doctor that she had given birth to a child. The placenta was not removed and was then removed by the doctor who attended on her at the hospital. The husband now asserts that even then he did not know about the child's birth. Nor was he inquisitive of what had happened to the child. It is stated that the petitioner was admitted in the hospital and the husband went back to the house. The petitioner had allegedly requested that the blood stained clothes be burnt. That request was faithfully acceded to and the clothes were being burnt. The presence of the body of the child was then found. It was then an FIR was lodged. This is the crux of the allegations that now emerge from the investigations conducted.

4. The petitioner has a totally different story to advance. Their's was a low marriage. Her husband was financially hard pressed. She

had given birth to the first child. According to her, she had become pregnant, immediately after the first child birth. Her husband did not relish that pregnancy. He wanted the pregnancy to be aborted. She was not willing. Theirs was a love marriage to which family had later on given consent for the marriage. She could not reveal the real facts to anyone. She therefore did not reveal to any one.

5. On the night she suffered pains and that she went to the toilet. When she strained herself, the child had come out. The child had allegedly hit the closet. She had allegedly cried out but no one perceived her cries and came to her help. She took her child and went to her husband who was sleeping in the room. By then she became unconscious. Her husband later informed her that the child was dead and he had buried the child. She was removed to the hospital in an auto rickshaw . In the auto rickshaw her husband revealed that the child was still at the house. She cried aloud. The auto rickshaw driver heard her cries and asked her husband what the reason was. She was taken to the doctor. The doctor was informed and knew of the child birth. The doctor who attended on her had removed the placenta. She was in the hospital. It was at that time that they attempted to destroy the body of the child without her knowledge by burning. Fanciful allegations are now being raised

against her. She was not the one responsible for the death of the child. She suspects the foul play at the hands of others in the house, including her husband. Though initially an attempt was made to assert that the petitioner had a dislike for a girl child and that is the reason for her to murder the child. The husband had stated to the investigator that he suspected the paternity of the child.

6. I have attempted to ascertain the details as revealed from the case diary, including the statement of the accused which is seen recorded. I shall not go deeper into the controversies raised. Suffice it to say that I am satisfied that a more efficient, serious and competent investigation deserves to be conducted. The learned Public Prosecutor, after perusing the case diary does not also disagree with me. It is seen that, after the statement of the petitioner was recorded, there has been no worthwhile cross checking of information with any other witness. That indeed is unsatisfactory. I shall refrain myself and do only say that I am not satisfied with the quality of the investigation conducted. Investigation in a serious crime like this deserves to be entrusted in more competent, expert and senior hands, who have the time and the commitment to endeavour to ascertain the truth.

7. The learned Public Prosecutor submits that the directions of

this Court shall be carried out and investigation shall be entrusted to the senior officials of the Police. I need only direct the 2nd respondent- the Director General of Police, to ensure that the investigation is entrusted to a Senior official of Police not below the rank of Dy. Superintendent of Police of proven credentials of sincerity and efficiency and competence to continue investigation of the crime. Appropriate orders shall be passed by the 2nd respondent, as indicated above, within a period of two weeks. Compliance shall be reported to this Court.

8. The direction that the present Investigating Officer shall not file the final report shall remain. The Investigating Officer who is to take over the investigation shall ensure that a proper efficient and expeditious investigation is conducted and the final report is submitted as expeditiously as possible. Hand over a copy of this order to the learned Public Prosecutor.

(R.BASANT, JUDGE)

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